

# FEDERAL COMMUNICATIONS COMMISSION

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September 8, 2004

Mr. David Oxenford  
Ms. Amy L. Van de Kerckhove  
Shaw Pittman LLP  
2300 N Street NW  
Washington, DC 20037

In re: KJKL (FM), Selma, Oregon  
Educational Media Foundation  
Facility ID No. BPEd-20040326AAR  
Petition for reconsideration of dismissal of  
application BPEd-20040326AAR

Mr. Oxenford and Ms. Van de Kerckhove:

By letter dated July 6, 2004 we dismissed the above-captioned minor change application on the grounds that it did not protect the licensed facilities of KKLJ, Klamath Falls, Oregon. On August 5, 2004 you filed a petition for reconsideration of the dismissal along with a minor change amendment that reduced the proposed effective radiated power from 50 to 30 kW, to eliminate the prohibited contour overlap with KKLJ.

The Commission's 1984 Public Notice entitled "Commission States Future Policy on Incomplete and Patently Defective AM and FM Construction Permit Applications", 47 CFR Section 73.4015, 56 RR 2d 776, 49 FR 47331 (1984), stated that a noncommercial educational application that is dismissed may file a petition for reconsideration with a corrective minor change amendment, and seek reinstatement of the application.

The original application sought grant of waivers of 47 CFR Section 73.509 to permit KJKL to receive prohibited contour overlap within the station's expanded 60 dBu contour from second adjacent channel stations KSMF, Ashland, OR and KSRG, Ashland, OR. The amended application, though at less power, still requires that these waivers be granted before a construction permit can be issued. In support of the requests for waiver, Educational Media Foundation provides exhibits to show that the amended application would receive prohibited contour overlap from the 100 dBu contours of KSMF and KSRG, encompassing 26.53 sq. km (0.14% of KJKL's proposed 60 dBu service area) and 3.56 sq. km (0.02% of KJKL's proposed 60 dBu service area), respectively. Educational Media Foundation has advised that these areas contain no population. On the other hand, KJKL would expand its coverage by 5523.71 sq. km (42.92%) and provide new service to 83,173 persons. We agree with Educational Media Foundation that the data provided supports waiver of Section 73.509. However, as per *Educational Information Corporation (WCP)*, 6 FCC Rcd 2207 (1991), these waivers will be granted subject to the condition that future changes by KSMF or KSRG will not constitute a *per se* modification of KJKL's license.

Accordingly, the petition for reconsideration IS GRANTED, and application BPED-20040326AAR as amended IS REINSTATED. The requested waivers of 47 CFR Section 73.509 ARE GRANTED. The application, being now acceptable for filing, IS GRANTED. These actions are taken pursuant to 47 CFR 0.283 of the Commission's rules.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale E. Bickel", written in a cursive style.

Dale E. Bickel  
Senior Electronics Engineer  
Audio Division  
Media Bureau

cc: Educational Media Foundation